

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL ACTION NO. 05 X 73282

v.

DISTRICT JUDGE ARTHUR J. TARNOW

W. HOWARD BURKEEN,

MAGISTRATE JUDGE VIRGINIA MORGAN

Defendant,

and

RAYMOND JAMES & ASSOCIATES,

Garnishee,

and

DEBRA A. BURKEEN,

Intervening Defendant.

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ORDER ENFORCING APPLICATION FOR  
WRIT OF CONTINUING GARNISHMENT

The matter having come before the court on the government's application for a writ of continuing garnishment, and the response of defendant and intervening defendants, and for the reasons stated on the record and incorporated herein, the application is granted as modified.

IT IS ORDERED as follows:

- 1) The government may garnish 50 percent of the jointly held account.

2) The government may garnish the Raymond-James IRA to the extent of its market value less 20 percent standard withholding (to be available to defendant for any income tax liability) and less an additional \$100.00 attorney fee requested by Raymond-James.

The magistrate judge notes that this effort to garnish assets affects the only convicted defendant, although three defendants were alleged to have been involved in the scheme to defraud. Judge Tarnow previously ordered an immediate payment of \$30,000.00, which defendant has made, and \$100.00 monthly payments as directed by the Probation Department. Garnishment of assets is not precluded by such orders as a matter of law. However, it is unclear on the record that Judge Tarnow was made aware of the government's intention to garnish assets at the time of sentence, and whether such knowledge would have affected his restitution order. The magistrate judge also notes that sentencing of this defendant was had prior to the acquittal of the lead defendant. Thus, the issue of whether this garnishment is inconsistent with or in opposition to the judge's directive in this individual case is unresolved but is beyond the scope of the order of reference.

SO ORDERED.

s/Virginia M. Morgan  
VIRGINIA M. MORGAN  
UNITED STATES MAGISTRATE JUDGE

Dated: December 9, 2005

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**PROOF OF SERVICE**

The undersigned certifies that the foregoing Order Enforcing Application was served upon counsel of record via the Court's ECF System and/or U. S. Mail on December 9, 2005.

s/Jennifer Hernandez  
Case Manager to  
Magistrate Judge Virginia M. Morgan